

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MARK VOELKER,

Plaintiff,

vs.

BNSF RAILWAY COMPANY, a
Delaware corporation,

Defendant.

CV 18–172–M–DLC

ORDER

Defendant BNSF Railway Company has filed a Motion for Judgment on the Pleadings (Doc. 65) challenging the constitutionality of Montana Code Annotated § 39-2-703. (Doc. 66 at 6–16.) BNSF has similarly filed its Notice of Constitutional Challenge pursuant to Rule 5.1(a) of the Federal Rules of Civil Procedure. (Doc. 67.)

Accordingly, IT IS ORDERED that pursuant to Rule 5.1(b) of the Federal Rules of Civil Procedure, this Court certifies to the Montana Attorney General Timothy C. Fox that a constitutional challenge to Montana Code Annotated § 39-2-703 has been raised in the above-captioned matter.

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 2403(b), the State of Montana may intervene in this matter for the purposes of presenting

evidence, if evidence is otherwise admissible in this case, and for argument on the question of constitutionality.

IT IS FURTHER ORDERED that, pursuant to Rule 5.1(b) of the Federal Rules of Civil Procedure, such intervention by the State of Montana must occur no later than 60 days after the filing of this notice.

The clerk shall provide a copy of this Order to the Montana Attorney General.

DATED this 14th day of September, 2020.



Dana L. Christensen, District Judge
United States District Court